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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,861	04/13/2004	Frank Berg Rasmussen	P69661US0	2668

7590 07/05/2006

JACOBSON HOLMAN  
400 SEVENTH STREET, N.W.  
WASHINGTON, DC 20004

EXAMINER
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ELVE, MARIA ALEXANDRA

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/822,861

Applicant(s)

RASMUSSEN ET AL.

Examiner

M. Alexandra Elve

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-22,27-29 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) 1, 4-18 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-22,28,29 and 31-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3/3/06.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

The amendment filed 4/21/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "...the hemispherical profile of the melted volume...".

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-21 & 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bager et al. (USPAP 2004/0089640 A1) in view of Buchanan et al. (USPAP 2004/0080573).

Bager et al. discloses the laser welding of two or more (multiple) layered assembly. The laser light is directed through an outer layer, which allows transmission of the laser light from the outer layer into an inner layer. The inner layer has an absorbent component, which is capable of absorbing laser light within a given range and thus creating a welded area. The welded product is typically an ostomy pouch or

bag. Specific materials may be added to such as carbon black and dyes as an absorbent material. The multiple layer assembly is subjected to a laser beam, which has a wavelength corresponding to the given absorbent chosen. The laser light travels through the first translucent outer layer and possibly other layers and then is absorbed by the absorbent resulting in local heat and hence the formation of a weld between the inner layers. The radiation absorbing material at the joint region has an absorption band matched to the wavelength of the incident radiation so as to absorb the incident radiation and generate heat for the melting/welding process. (abstract, figures, 0007-0008, 0010, 0012, 0014, 0018-0021, 0035-0037, 0042, 0046-0047, 0050, 0052, 0054)

Bager et al. discloses transmission and absorption but does not specifically teach scattering.

Buchanan et al. discloses laser welding of upper and lower workpieces along a weld interface, with the upper workpiece being transparent to the laser light. Numerous parameters contribute to the absorption and transmission characteristics of materials including laser wavelength, materials and so forth. When the material properties and laser properties are fixed in a system, the transmission rate of the laser through a workpiece follows the Beer-Lambert Law, specifically  $I/I_0 = e^{-sx}$ , where  $I_0$  is the intensity of the light source incident on the workpiece,  $I$  is the intensity of the light after passing through the workpiece,  $x$  is the thickness of the workpiece, and  $s$  is the total extinction coefficient which, in turn is the workpiece light scattering coefficient plus the workpiece light absorption coefficient. (abstract, 0003-0004)

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It would have been obvious to one of ordinary skill in the art at the time of the invention to determine the scattering component as taught by Buchanan et al. in the Bager et al. system because it is merely a refined component of the absorbent parameter.

The prior art discloses a product substantially similar to the claimed product, differing only in the manner in which it is produced. It has been held the one of ordinary skill in the art at the time of the invention would have considered the claimed invention to have been obvious because of the similarity in properties. The burden falls to the applicant to show that any process steps associated with the claimed product result in a materially different product from those of the prior art; because there is nothing in the record before the examiner to reasonably conclude that applicant's product differs in kind from those obtained by the references. See *In re Brown* 173 USPQ 685 and *In re Fessman* 180 USPQ 324.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bager et al. and Buchanan et al. as stated above and further in view of Dries et al. (USPAP 2003/0003296 A1).

Bager et al. and Buchanan et al. disclose a laser welded product using an absorbent, however, the specific size of the absorber is not taught.

Dries et al. discloses a multilayer packing material, which is, laser transmission welded. Additives are present in given films in order to increase the temperature upon application of laser energy. This in turn causes a film to soften or melt and create a

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bond upon cooling. The mean particle size of laser pigments is generally in the range from 0.01 to 4  $\mu\text{m}$ , preferably in the range from 0.1 to 2  $\mu\text{m}$ , in particular 0.1 to 1  $\mu\text{m}$ . The outer layer generally comprises laser pigment in an amount from 0.01 to 10% by weight. If the concentration of the pigments is too low, only moderate absorption will occur and a poor bond will be formed. (abstract, 0038, 0042)

It would have been obvious to one of ordinary skill in the art at the time of the invention to note the size of the pigments or absorbers, as taught by Dries et al. in the Bager et al. and Buchanan et al. system because this is merely a measurement of an already used system component.

### ***Response to Amendment***

The amendment filed 4/21/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "hemispherical profile".

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Response to Arguments***

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 571-272-1173. The examiner can normally be reached on 6:30-3:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 29, 2006.

A handwritten signature in black ink, appearing to read 'MA Elve', with a long horizontal flourish extending to the right.

M. Alexandra Elve  
Primary Examiner 1725